

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee.

v.

No. 98-4480

JAMES LEROY YOUNG,
Defendant-Appellant.

Appeal from the United States District Court
for the District of South Carolina, at Spartanburg.
Henry M. Herlong, Jr., District Judge.
(CR-98-43)

Submitted: June 15, 1999

Decided: September 20, 1999

Before WIDENER and NIEMEYER, Circuit Judges, and
HALL,¹ Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

COUNSEL

David G. Ingalls, Spartanburg, South Carolina, for Appellant. J. Rene
Josey, United States Attorney, Harold Watson Gowdy, III, Assistant
United States Attorney, Greenville, South Carolina, for Appellee.

¹ Senior Judge Hall was assigned to the panel in this case but died prior
to the time the decision was filed. The decision is filed by a quorum of
the panel pursuant to 28 U.S.C. § 46(d).

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

James Leroy Young appeals his guilty plea conviction for possession with intent to distribute cocaine base within 1000 feet of a public housing facility, in violation of 21 U.S.C. #8E8E # 841(a)(1), 860 (1994). Finding no error, we affirm.

On appeal, Young asserts that counsel was ineffective for allowing him to plead guilty to the offense because the amount of drugs he possessed was inconsistent with an intent to distribute. This claim should be raised in a motion under 28 U.S.C.A. § 2255 (West Supp. 1999), and not on direct appeal, because the record does not conclusively show that counsel was ineffective. *See United States v. King*, 119 F.3d 290, 295 (4th Cir. 1997) (providing standard).

Young also asserts that the district court erred in refusing to award a three-level decrease in his base offense level for acceptance of responsibility under *U.S. Sentencing Guidelines Manual* § 3E1.1 (1997). We find that the district court's refusal was not clearly erroneous. *See United States v. Holt*, 79 F.3d 14, 17 (4th Cir. 1996).

Accordingly, we affirm Young's conviction and sentence. We grant Young's pro se motion to supplement the record. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED